

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

LEE F.,

Plaintiff,

v.

Civil Action No.
3:20-CV-1272 (DEP)

KILOLO KIJAKAZI, Acting Commissioner
of the Social Security Administration,¹

Defendant.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF

LACHMAN, GORTON LAW FIRM
P.O. Box 89
1500 East Main Street
Endicott, NY 13761-0089

PETER A. GORTON, ESQ.

FOR DEFENDANT

SOCIAL SECURITY ADMIN.
Office of the General Counsel
6401 Security Boulevard
Baltimore, MD 21235

NATASHA OELTJEN, ESQ.

¹ Plaintiff's complaint named Andrew M. Saul, in his official capacity as the Commissioner of Social Security, as the defendant. On July 12, 2021, Kilolo Kijakazi took office as the Acting Social Security Commissioner. She has therefore been substituted as the named defendant in this matter pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, and no further action is required in order to effectuate this change. See 42 U.S.C. § 405(g).

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

DECISION AND ORDER²

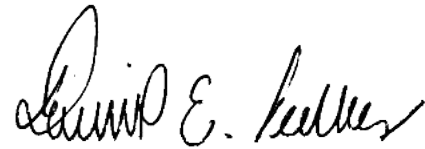
Plaintiff commenced this action, pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3), to challenge a denial by the Commissioner of Social Security (“Commissioner”) denying his application for Social Security disability benefits. On March 24, 2022, this court ordered that the Commissioner’s decision be affirmed and plaintiff’s complaint be dismissed, and judgment was entered accordingly. Following an appeal from the judgment, a panel of the Second Circuit Court of Appeals vacated this court’s judgment and returned the matter to this court with an instruction to remand the matter to the Commissioner for further administrative proceedings. *Fox v. Kijakazi*, 22-793, 2023 WL 124861 (2d Cir. Jan. 4, 2023). Based upon that court’s determination, it is hereby

ORDERED that the judgment of this court (Dkt. No. 25) is VACATED, and the matter is REMANDED to the Commissioner for further proceedings; and it is further respectfully

ORDERED that the clerk enter judgment consistent with this opinion.

² This matter is before me based upon consent of the parties, pursuant to 28 U.S.C. § 636(c).

Dated: March 1, 2023
Syracuse, NY

A handwritten signature in black ink, appearing to read "David E. Peebles". The signature is written in a cursive, flowing style with a large initial 'D'.

DAVID E. PEEBLES
U.S. Magistrate Judge